

Regular Session, 2010

HOUSE BILL NO. 1155

BY REPRESENTATIVE CONNICK

SEX OFFENSE/REGISTRY: Provides relative to sex offender registration and notification provisions

1 AN ACT

2 To amend and reenact R.S. 15:541(2)(a) and (24), 542(A)(2) and (3)(a), (B), (F)(2) and
3 (3)(a) and (c), 542.1.3(B)(2), (3), and (4), and (H), and 544(D)(1) and (2) and (E)(2),
4 and to enact R.S. 15:541(2)(n), (12)(c), (25)(l), (31), and (32), 542(A)(3)(h), and
5 544(D)(4), relative to sex offender registration and notification; to provide relative
6 to sex offender registration and notification requirements; to provide for definitions;
7 to provide relative to sex offender registration and notification procedures; to amend
8 provisions regarding the duration of registration and notification requirements; and
9 to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 15:541(2)(a) and (24), 542(A)(2) and (3)(a), (B), (F)(2) and (3)(a)
12 and (c), 542.1.3(B)(2), (3), and (4), and (H), and 544(D)(1) and (2) and (E)(2) are hereby
13 amended and reenacted and R.S. 15:541(2)(n), (12)(c), (25)(l), (31), and (32), 542(A)(3)(h),
14 and 544(D)(4) are hereby enacted to read as follows:

15 §541. Definitions

16 For the purposes of this Chapter, the definitions of terms in this Section shall
17 apply:

18 * * *

19 (2) "Aggravated offense" means a conviction for the perpetration or
20 attempted perpetration of, or conspiracy to commit, any of the following:

1 (a) Aggravated rape (R.S. 14:42), which shall include convictions for the
2 perpetration or attempted perpetration of, or conspiracy to commit, aggravated oral
3 sexual battery (formerly R.S. 14:43.4, Repealed by Acts 2001, No. 301, §2)
4 occurring prior to August 15, 2001.

5 * * *

6 (n) Any conviction for an offense under the laws of another state, or military,
7 territorial, foreign, tribal, or federal law which is equivalent to the offenses listed in
8 Paragraphs (a) through (m) of this Subsection.

9 * * *

10 (12) "Criminal offense against a victim who is a minor" for the purposes of
11 this Chapter means conviction for the perpetration or attempted perpetration of or
12 conspiracy to commit any of the following offenses:

13 * * *

14 (c) Any conviction for an offense under the laws of another state, or military,
15 territorial, foreign, tribal, or federal law which is equivalent to the offenses listed in
16 Paragraphs (a) and (b) of this Subsection.

17 * * *

18 (24)(a) "Sex offense" means deferred adjudication, adjudication withheld,
19 or conviction for the perpetration or attempted perpetration of or conspiracy to
20 commit R.S. 14:78 (incest), R.S. 14:78.1 (aggravated incest), R.S. 14:89 (crime
21 against nature), R.S. 14:89.1 (aggravated crime against nature), R.S. 14:80 (felony
22 carnal knowledge of a juvenile), R.S. 14:81 (indecent behavior with juveniles),
23 R.S.14:81.1 (pornography involving juveniles), R.S. 14:81.2 (molestation of a
24 juvenile), R.S. 14:81.3 (computer-aided solicitation of a minor), R.S. 14:81.4
25 (prohibited sexual conduct between an educator and student), R.S. 14:92(A)(7)
26 (contributing to the delinquency of juveniles), R.S. 14:93.5 (sexual battery of the
27 infirm), R.S. 14:106(A)(5) (obscenity by solicitation of a person under the age of
28 seventeen), R.S. 14:283 (video voyeurism), ~~any provision of Subpart C of Part II of~~
29 ~~Chapter I of Title 14 of the Louisiana Revised Statutes of 1950~~ R.S. 14:41 (rape),

1 R.S. 14:42 (aggravated rape), R.S. 14:42.1 (forcible rape), R.S. 14:43 (simple rape),
2 R.S. 14:43.1 (sexual battery), R.S. 14:43.2 (second degree sexual battery), R.S.
3 14:43.3 (oral sexual battery), R.S. 14:43.5 (intentional exposure to AIDS virus), or
4 a second or subsequent conviction of R.S. 14:283.1 (voyeurism), committed on or
5 after June 18, 1992, or committed prior to June 18, 1992, if the person, as a result of
6 the offense, is under the custody of the Department of Public Safety and Corrections
7 on or after June 18, 1992. A conviction for any offense provided in this definition
8 includes a conviction for the offense under the laws of another state, or military,
9 territorial, foreign, tribal, or federal law which is equivalent to an offense provided
10 for in this Chapter, unless the tribal court or foreign conviction was not obtained with
11 sufficient safeguards for fundamental fairness and due process for the accused as
12 provided by the federal guidelines adopted pursuant to the Adam Walsh Child
13 Protection and Safety Act of 2006.

14 (b) For purposes of this Chapter, "sex offense" shall include deferred
15 adjudication, adjudication withheld, or conviction for the perpetration or attempted
16 perpetration of or conspiracy to commit aggravated oral sexual battery (formerly
17 R.S. 14:43.4, Repealed by Acts 2001, No. 301, §2) occurring prior to August 15,
18 2001.

19 (25) "Sexual offense against a victim who is a minor" means a conviction for
20 the perpetration or attempted perpetration of, or conspiracy to commit, any of the
21 following:

22 * * *

23 (l) Any conviction for an offense under the laws of another state, or military,
24 territorial, foreign, tribal, or federal law which is equivalent to the offenses listed in
25 Paragraphs (a) through (k) of this Subsection.

26 * * *

27 (31) "Out-of-state offender" means any offender convicted or adjudicated in
28 any court system, other than a court in this state, of any offense having elements

1 equivalent to a "sex offense" or a "criminal offense against a victim who is a minor",
2 as defined in this Section.

3 (32) "Out of state offense" means any offense, as defined by the laws of any
4 jurisdiction other than the state of Louisiana, the elements of which are comparable
5 to a Louisiana "sex offense" or "criminal offense against a victim who is a minor",
6 as defined in this Section.

7 §542. Registration of sex offenders and child predators

8 A. The following persons shall be required to register and provide
9 notification as a sex offender or child predator in accordance with the provisions of
10 this Chapter:

11 * * *

12 (2) Any juvenile who has pled guilty or has been convicted of a sex offense
13 or second degree kidnapping as provided for in Children's Code Article 305 or 857,
14 with the exception of simple rape but including any conviction for an offense under
15 the laws of another state, or military, territorial, foreign, tribal, or federal law which
16 is equivalent to the offenses listed herein for which a juvenile would have to register;
17 and

18 (3) Any juvenile, who has attained the age of fourteen years at the time of
19 commission of the offense, who has been adjudicated delinquent based upon the
20 perpetration, attempted perpetration, or conspiracy to commit any of the following
21 offenses:

22 (a) Aggravated rape (R.S. 14:42),which shall include those that have been
23 adjudicated delinquent based upon the perpetration, attempted perpetration, or
24 conspiracy to commit aggravated oral sexual battery (formerly R.S. 14:43.4,
25 Repealed by Acts 2001, No. 301, §2) occurring prior to August 15, 2001.

26 * * *

27 (h) An offense under the laws of another state, or military, territorial,
28 foreign, tribal, or federal law which is equivalent to the offenses listed in
29 Subparagraphs (a) through (g) of this Paragraph.

1 B.(1) The persons listed in Subsection A of this Section shall register in-
2 person with the sheriff of the parish of the person's residence, or residences, if there
3 is more than one, and with the chief of police if the address of any of the person's
4 residences is located in an incorporated area which has a police department. If the
5 offender resides in a parish with a population in excess of four hundred fifty
6 thousand, he shall register in-person with the police department of his municipality
7 of residence.

8 (2) The offender shall also register in-person with the sheriff of the parish
9 or parishes where the offender is an employee and with the sheriff of the parish or
10 parishes where the offender attends school. If the offender is employed or attends
11 school in a parish with a population in excess of four hundred fifty thousand, then
12 he shall register with the police department of the municipality where he is employed
13 or attends school. The offender shall also register in the parish of conviction for the
14 initial registration only. No registration in the parish of conviction is necessary if the
15 offender is incarcerated at the time of conviction or immediately taken into custody
16 by law enforcement after the conviction.

17 * * *

18 F.

19 * * *

20 (2) Upon joint written motion by the district attorney and the petitioner, the
21 court of conviction may waive sex offender registration and notification
22 requirements imposed by the provisions of this Chapter for a person convicted of
23 felony carnal knowledge of a juvenile (R.S. 14:80) on, before, or after January 1,
24 2008, when the victim is at least thirteen years of age and the offender was not more
25 than four years older than the victim at the time of the commission of the offense.
26 Relief shall not be granted unless the motion is accompanied by supporting
27 documentary proof of the age of the victim and the age of the perpetrator at the time
28 of commission of the offense. If the court of conviction was not a Louisiana district
29 court, this joint motion may be brought in the district court of the parish of the

1 offender's residence after the bureau has made the determination, pursuant to the
2 provisions of R.S. 15:542.1.3, on the grounds that the elements of the offense of
3 conviction are equivalent to the elements of R.S. 14:80. The court may grant the
4 motion upon clear and convincing evidence that the ages of the victim and offender
5 at the time of commission of the offense were within the limitations provided in this
6 Section.

7 (3)(a) Any person who was convicted of carnal knowledge of a juvenile
8 (R.S. 14:80) prior to August 15, 2001, may petition the court of conviction to be
9 relieved of the sex offender registration and notification requirements of this Chapter
10 if the offense for which the offender was convicted would be defined as
11 misdemeanor carnal knowledge of a juvenile (R.S. 14:80.1) had the offender been
12 convicted on or after August 15, 2001. Offenders convicted of an offense under the
13 laws of another state, or military, territorial, foreign, tribal, or federal law, may
14 petition the district court of his parish of residence once the administrative
15 procedures of R.S. 15:542.1.3 have been exhausted and the elements of the offense
16 of conviction have been found to be equivalent to the current definition of
17 misdemeanor carnal knowledge of a juvenile (R.S. 14:80.1).

18 * * *

19 (c) The provisions of this Paragraph shall not apply to any person who was
20 convicted of more than one offense which requires registration pursuant to the
21 provisions of this Chapter ~~sex offense as defined in R.S. 15:541.~~

22 * * *

23 §542.1.3. Procedures for ~~out-of-state~~ offenders convicted or adjudicated under the
24 laws of another state, or military, territorial, foreign, tribal or federal law;
25 procedures for Louisiana offenders with out-of-state activities

26 * * *

27 B.

28 * * *

1 (2) Within ninety days of receiving the information required by the
2 provisions of R.S. 15:542(E) ~~notification required by the provisions of Paragraph (1)~~
3 ~~of this Subsection~~, the bureau shall determine which time period of registration under
4 the provisions of R.S. 15:544 and the frequency of in-person periodic renewals under
5 the provisions of R.S. 15:542.1 is applicable to the ~~out-of-state~~ offender while
6 residing in Louisiana. This determination shall be based on a comparison of the
7 elements of the ~~out-of-state~~ offense of conviction or adjudication with the elements
8 of the most comparable Louisiana offense. The bureau shall post this official
9 notification on the state sex offender and child predator registry within the ninety-
10 day period provided in this Paragraph. If the most comparable Louisiana offense is
11 carnal knowledge of a juvenile, the bureau shall indicate so and give notice to the
12 offender that he may qualify for relief from registration pursuant to the provisions
13 of R.S. 15:542(F)(2) or (3) if the offender's age and the age of the victim are within
14 the limitations provided by R.S. 15:542.

15 (3) Within ninety days of the effective date of the provisions of Paragraph
16 (2) of this Subsection, the bureau shall make a determination of the appropriate time
17 period of registration under R.S. 15:544 and the number of required in-person
18 periodic renewals under the provisions of R.S. 15:542.1.1 applicable to each sex
19 offender or child predator convicted ~~out-of-state~~ under the laws of another state, or
20 military, territorial, foreign, tribal, or federal law who established a residence in this
21 state prior to January 1, 2008. The bureau shall post this official notification on the
22 registry within the ninety-day time period provided in this Paragraph. If the most
23 comparable Louisiana offense is carnal knowledge of a juvenile, the bureau shall
24 indicate so and give notice to the offender that he may qualify for relief from
25 registration pursuant to R.S. 15:542 (F)(2) or (3) if the offender's age and the age of
26 the victim are within the limitations provided by R.S. 15:542.

27 (4) Any offender convicted or adjudicated ~~out-of-state~~ under the laws of
28 another state, or military, territorial, foreign, tribal, or federal law who establishes
29 a residence in this state and is required to register and notify pursuant to the

provisions of this Chapter may appeal the bureau's determination of the applicable time period of registration and frequency of in-person periodic renewals through an administrative hearing as provided in R.S. 49:950 et seq. The offender shall have one year from the date that the bureau posted its determination on the registry to appeal. The duty to register and notify according to the determination of the bureau made pursuant to the provisions of this Subsection shall be binding and shall not be suspended or stayed pending appeal of the classification of the offender.

* * *

H. When an offender who was convicted of or adjudicated for an ~~out-of-state~~ offense under the laws of another state, or military, territorial, foreign, tribal, or federal law requiring registration pursuant to the provisions of this Chapter appears in person for initial registration with the appropriate law enforcement agency in his parish of residence, the law enforcement agency shall follow the procedures set forth in R.S. 15:543(B)(1) through (7).

* * *

§544. Duration of registration and notification period

* * *

D.(1) The registration period of fifteen years established in Subsection A of this Section ~~shall~~ may be reduced to a period of ten years if the offender maintains a clean record for the entire ten-year period of registration upon petition to be relieved of the sex offender registration to the court of conviction for those convicted in Louisiana, or the court of the parish of residence for those convicted under the laws of another state, or military, territorial, foreign, tribal, or federal law which have been determined to be comparable to a Louisiana offense requiring a fifteen-year registration period by the bureau pursuant to the provisions of R.S. 15:542.1.3.

(2) The lifetime registration period established in Paragraph (B)(2) of this Section ~~shall~~ may be reduced to a period of twenty-five years if the offender was adjudicated delinquent for the offense which requires registration and maintains a clean record for twenty-five years upon petition to be relieved of the sex offender

1 registration to the court of adjudication for those adjudicated in Louisiana, or court
2 of the parish of residence for those adjudicated under the laws of another state, or
3 military, territorial, foreign, tribal, or federal law.

4 * * *

5 (4) The following procedures shall apply to the provisions of Paragraphs (1)
6 and (2) of this Subsection:

7 (a) The district attorney shall be served with a copy of the petition.

8 (b) The court shall order a contradictory hearing to determine whether the
9 offender is entitled to be relieved of the registration and notification requirements
10 pursuant to the provisions of Paragraphs (1) and (2) of this Subsection.

11 (c) The provisions of Paragraph (1) and (2) of this Subsection shall not apply
12 to any person who was convicted of more than one offense which requires
13 registration pursuant to the provisions of this Chapter.

14 E.

15 * * *

16 (2) Whenever the registration and notification period of a sex offender has
17 been increased to lifetime pursuant to the provisions of Paragraph (1) of this
18 Subsection, upon maintenance of a clean record for the minimum time period
19 applicable to the offense of conviction as provided by the provisions of Subsection
20 A or Paragraph (B)(1) of this Section, the offender may petition the court in the
21 jurisdiction of conviction, or if convicted ~~out of state~~ under the laws of another state,
22 or military, territorial, foreign, tribal, or federal law, in the jurisdiction of the
23 offender's residence, to be relieved of the registration and notification requirements
24 of this Chapter. The district attorney shall be served with the petition, and the matter
25 shall be set for contradictory hearing. Upon a finding by clear and convincing
26 evidence that the offender has maintained a "clean record" as defined in this Section
27 and that the offender does not pose a substantial risk of committing another offense
28 requiring registration pursuant to this Chapter, the court may order that the offender
29 be relieved of the obligation to register and notify pursuant to this Chapter.

- 1 Section 2. It is the intent of this legislature to require persons convicted of
2 aggravated oral sexual battery prior to the repeal of R.S. 14:43.4 by Act 301 of 2001 R.S.
3 to comply with all registration and notification requirements of Chapter 3-B of Title 15.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Connick

HB No. 1155

Abstract: Provides relative to sex offender registration and notification provisions.

Present law (R.S. 15:541 et seq.) provides for the following:

- (1) Requires sex offenders, child predators, and juveniles adjudicated delinquent for certain offenses to register with local law enforcement agencies and to provide them with information regarding their identities, residence, conviction, and other personal information.
- (2) Provides registration procedures for offenders with out-of-state convictions.
- (3) Provides for registration periods of 15 and 25 years for some offenders and lifetime registration for the most violent offenders.
- (4) Provides that the duration of the sex offender registration and notification period shall be reduced if the offender maintains a clean record for a certain period of time.

Proposed law amends and clarifies present law provisions, including the following major changes:

- (1) Redefines "aggravated offense", "criminal offense", and "sexual offense against a victim who is a minor" to include convictions for certain offenses under the laws of another state, or military, territorial, foreign, tribal, or federal law.
- (2) Provides that the registration and notification requirements of Chapter 3-B of Title 15 shall also apply to persons who were convicted of the perpetration or attempted perpetration of, or conspiracy to commit, aggravated oral sexual battery prior to August 15, 2001, the effective date of the repeal of R.S. 14:43.4.
- (3) Adds the definitions of "out-of-state offender" and "out-of-state offense".
- (4) Clarifies that juveniles are required to register on the basis of an in-state or out-of-state adjudication for certain offenses.
- (5) Clarifies that sex offenders shall register in person with local enforcement.
- (6) Provides for the venue and burden of proof relative to a motion to waive sex offender registration requirements for out-of-state convictions of carnal knowledge of a juvenile.
- (7) Clarifies provisions regarding the registration procedures and the duration of registration requirements for offenders convicted or adjudicated under the laws of another state, or military, territorial, foreign, tribal, or federal law.

(8) Amends provision providing that the duration of the sex offender registration and notification period shall be reduced if the offender maintains a clean record for a certain period of time, and provides that the duration may be reduced upon petition to the court of conviction or adjudication.

(9) Clarifies procedures for reductions in sex offender registration periods.

(Amends R.S. 15:541(2)(a) and (24), 542(A)(2) and (3)(a), (B), (F)(2) and (3)(a) and (c), 542.1.3(B)(2), (3), and (4), and (H), and 544(D)(1) and (2) and (E)(2); Adds R.S. 15:541(2)(n), (12)(c), (25)(l), (31), and (32), 542(A)(3)(h), and 544(D)(4))